

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Cristal Rivera	Team: Team # 1	CCRB Case #: 200713719	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 09/13/2007 4:30 PM	Location of Incident: 153rd Street and 75th Road	Precinct: 107	18 Mo. SOL 3/13/2009	EO SOL 3/13/2009	
Date/Time CV Reported Wed, 09/19/2007 11:57 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Wed, 09/19/2007 11:57 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. DT3 Ronald Luparello	06400	916088	NARCBQN
2. POM James Lee	03259	930421	NARCBQN
3. POM Joseph Oliverio	31611	933118	NARCBQN
4. DT1 Harold Thomas	00511	884816	NARCBQN
5. SGT Eric Beckel	00037	914294	NARCBQN
6. DT3 Naylinden Jones	07411	910835	NARCBQN

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DT3 Christop Hirsch	02324	921424	NARCBQN
2. DT3 Thomas Sikinger	06727	926118	NARCBQN

Officer(s)	Allegation	Investigator Recommendation
A.SGT Eric Beckel	Abuse: Sgt. Eric Beckel authorized the stop of the vehicle in which § 87(2)(b) was an occupant.	
B.SGT Eric Beckel	Abuse: Sgt. Eric Beckel pointed his gun at § 87(2)(b) and § 87(2)(b)	
C.DT3 Ronald Luparello	Abuse: Det. Ronald Luparello pointed his gun at § 87(2)(b) and § 87(2)(b)	
D.DT3 Ronald Luparello	Discourtesy: Det. Ronald Luparello spoke obscenely and/or rudely to § 87(2)(b)	
E.DT3 Ronald Luparello	Force: Det. Ronald Luparello used physical force against § 87(2)(b)	
F.POM James Lee	Force: Officer James Lee used physical force against § 87(2)(b)	
G.POM Joseph Oliverio	Force: Officer Joseph Oliverio used physical force against § 87(2)(b)	
H.DT3 Ronald Luparello	Abuse: Det. Ronald Luparello searched the car in which § 87(2)(b) and § 87(2)(b) were occupants.	

Officer(s)	Allegation	Investigator Recommendation
§ 87(4-b) § 87(2)(g)	[REDACTED]	[REDACTED]
§ 87(4-b) § 87(2)(g)	[REDACTED]	[REDACTED]
§ 87(4-b) § 87(2)(g)	[REDACTED]	[REDACTED]
§ 87(4-b) § 87(2)(g)	[REDACTED]	[REDACTED]
§ 87(4-b) § 87(2)(g)	[REDACTED]	[REDACTED]
§ 87(4-b) § 87(2)(g)	[REDACTED]	[REDACTED]

Synopsis

On September 13, 2007, at approximately 4:30pm, PO Joseph Oliverio and PO James Lee, members of the Narcotics Borough Queens, observed § 87(2)(b) and § 87(2)(b) smoking marijuana cigarettes inside of § 87(2)(b)'s vehicle, described as a black four-door sedan, in the vicinity of 153rd Street and 75th Avenue in Queens. PO Oliverio and PO Lee put over a radio transmission to the other members of their field team. The radio transmission stated that there were four black males in a black four-door sedan smoking marijuana cigarettes, and a direction of travel was also provided.

Sgt. Eric Beckel and Det. Ronald Luparello, also members of the Narcotics Borough Queens, received the radio transmission and noticed a vehicle that matched the description provided. They followed the vehicle and conducted a stop (**Allegation A**). Sgt. Beckel and Det. Luparello allegedly exited their vehicle with their guns un-holstered and pointed them towards the vehicle (**Allegations B and C**). When the officers approached the vehicle § 87(2)(b) who was seated in the backseat, allegedly asked Det. Luparello if he could see his badge. Det. Luparello allegedly responded, "You want to see my fucking badge?" (**Allegation D**) § 87(2)(b) was removed from the vehicle, taken to the ground, and allegedly kicked and punched by PO Lee, Det. Luparello, and PO Oliverio (**Allegations E, F and G**). § 87(2)(b) was handcuffed while on the ground.

As Sgt. Beckel and Det. Luparello walked towards the front area of the vehicle they detected a strong odor of marijuana. The occupants were removed from the vehicle and arrested. During this time another vehicle arrived with Det. Naylinden Jones and Det. Harold Thomas, also members of the Narcotics Borough Queens. Det. Luparello performed a search of the vehicle, which included the front and back seats, center console, and floor of the vehicle (**Allegation H**). He recovered a gravity knife from the center console of the vehicle. PO Oliverio, Det. Jones, and Det. Thomas performed frisks and searches of § 87(2)(b) and § 87(2)(b) which were incident to arrest. The search of § 87(2)(b) yielded a small bag of marijuana, which was found in his right sock. § 87(2)(b) and § 87(2)(b) were arrested for § 87(2)(b).

§ 87(4-b) § 87(2)(g)

§ 87(2)(g)

§ 87(4-b) § 87(2)(g)

Summary of Complaint

On September 19, 2007, § 87(2)(b) filed a complaint with the CCRB via email on behalf of her son, § 87(2)(b) and his friends [Encl. 8a-8e and 9a-9c]. § 87(2)(b) was not present for the incident. On November 9, 2007, § 87(2)(b) a § 87(2)(b)-year-old black male, was interviewed at the CCRB [Encl. 10a-10i].

On September 13, 2007, at approximately 4:00pm, § 87(2)(b) was parked outside of his friend, § 87(2)(b) apartment building, located at the corner of § 87(2)(b) and § 87(2)(b). § 87(2)(b) was with his friend, § 87(2)(b) and they were inside of his vehicle, described as a 2004 black Pontiac Grand-Am. § 87(2)(b) was seated in the passenger seat, § 87(2)(b) was driving, and § 87(2)(b) was seated in the rear driver's side of the vehicle. They were smoking cigarettes inside of the vehicle with the windows rolled down, therefore ashing out of the windows.

Prior to arriving at this location § 87(2)(b) and § 87(2)(b) had gone to the corner store to buy cigarettes. While they were waiting for § 87(2)(b) § 87(2)(b) spoke with two of his friends that were standing outside of § 87(2)(b)'s building. His friend, identified as § 87(2)(b) walked to the driver's side of the

vehicle because the vehicle was parked alongside the sidewalk with the driver's side of the vehicle facing the building. § 87(2)(b) had not seen him for a long period of time because § 87(2)(b) had been incarcerated, and was released from prison earlier that day. § 87(2)(b) leaned across the driver's seat to shake hands with § 87(2)(b) which he described as making physical contact with § 87(2)(b) by touching palms. They spoke for approximately ten to fifteen minutes. There was another male, identified as § 87(2)(b) standing about five to ten feet away from the vehicle who was not speaking with § 87(2)(b) or his friends during this time.

At this point § 87(2)(b) had music playing in his vehicle and they were singing along and rapping to the music. The music was somewhat loud, and they were singing at a loud volume. § 87(2)(b) did not see any officers in the area in marked or unmarked vehicles. § 87(2)(b) and § 87(2)(b) said good-bye, slapped hands with § 87(2)(b) and § 87(2)(b) and then entered the apartment building. § 87(2)(b) did not purchase any narcotics from § 87(2)(b) or § 87(2)(b) at this time, nor did any other occupants of the vehicle. § 87(2)(b) exited his building as § 87(2)(b) and § 87(2)(b) said good-bye. § 87(2)(b) entered the back passenger side of the vehicle, and § 87(2)(b) backed out of the parking spot. § 87(2)(b) exited the vehicle to ensure that the other parked vehicles were not hit as § 87(2)(b) backed up. He was outside of the vehicle for approximately five minutes and re-entered to drive away.

§ 87(2)(b) drove down 75th Road and made a left onto 153rd Street. He drove two blocks north and made another left onto 72nd Road, followed by a left onto 150th Street. He continued down to 76th Road and made a right. It took them approximately three minutes to travel from the first location to the second one. They were traveling to § 87(2)(b)'s apartment.

They circled 76th Road for approximately ten to fifteen minutes looking for a parking spot. As they made a second circle around the area, § 87(2)(b) noticed a black Durango moving quickly behind him. It appeared as though the Durango was going to hit his bumper. § 87(2)(b) knew the vehicle was an unmarked police vehicle, from his own personal knowledge, and informed § 87(2)(b) and the other occupants of this. § 87(2)(b) turned his torso and saw a siren sitting on the dashboard, but it was not activated. § 87(2)(b) pulled to the side of the road in order to allow the vehicle to pass, but the Durango pulled behind his vehicle.

§ 87(2)(b) had his Sidekick cellular phone in his hand and was sending a text message when they were pulled over. The music was still relatively loud, and he lowered it once the officers pulled them over. They were smoking cigarettes throughout the entire time that they were driving, but stopped once they were pulled over.

They pulled over on 150th Street and 76th Road. Two officers, identified as Det. Ronald Luparello and Sgt. Eric Beckel, exited the Durango with their guns un-holstered and pointed towards § 87(2)(b)'s vehicle. Det. Luparello yelled, "Put your hands outside of the vehicle." All of the occupants complied by sticking both hands out of the rolled down windows. Det. Luparello approached from the rear towards the driver's side of the vehicle.

As Det. Luparello passed the rear driver's side door, § 87(2)(b) said, "I don't mean no disrespect sir, but can I see your badge?" Det. Luparello responded, "You want to see my fucking badge?" Det. Luparello immediately opened the rear driver's side door and grabbed § 87(2)(b). He was dragged out of the vehicle, meaning § 87(2)(b)'s torso was grabbed and pulled to remove him from the vehicle. Another officer, identified through the investigation as PO James Lee, ran to the backseat passenger side door, and put both of his hands on § 87(2)(b). PO Lee grabbed § 87(2)(b) by his T-shirt and threw him onto the ground. § 87(2)(b) assumed that another vehicle had arrived because he did not see PO Lee exit the Durango. § 87(2)(b) was removed from the vehicle and thrown onto the ground. § 87(2)(b) landed on his stomach, and was face down on the pavement. Det. Luparello put his knee on § 87(2)(b)'s back, and applied pressure to the side of § 87(2)(b)'s head with his upper body. He placed his hands and arms on the side of § 87(2)(b)'s head, while his left cheek remained on the ground. Det. Luparello applied pressure to the right side of § 87(2)(b)'s face. PO Oliverio ran towards § 87(2)(b) while he was lying on the ground and "jumped" on § 87(2)(b)'s back by putting all his weight on his knee and pushing it into his lower back. § 87(2)(b) yelled out in pain, "Oh, I am not resisting, please stop!" PO

Lee, PO Oliverio, and Det. Luparello were all on § 87(2)(b)'s back and handcuffed him, which took about a minute. § 87(2)(b) had an unobstructed view of the interaction from where he was seated.

Another officer, described as a black male wearing a § 87(2)(b) adjustable baseball cap and identified through the investigation as Det. Naylinden Jones, approached § 87(2)(b)'s window on the passenger side of the vehicle. Det. Jones asked § 87(2)(b) to put his mobile phone on the seat, and exit the vehicle. § 87(2)(b) complied. § 87(2)(b) exited the vehicle and put his hands on the roof of the vehicle by the passenger side. Det. Jones performed a frisk of § 87(2)(b) rubbing his hands over § 87(2)(b)'s clothing, particularly his pockets. After frisking his pockets Det. Jones placed his hands inside of § 87(2)(b)'s left and right side pants pockets and removed his wallet, keys, cigarettes, and lighters. § 87(2)(b) had a few identifications in his pockets and a whistle because he had been at work, where he is an instructor for children. Det. Jones removed the items and placed them on the front passenger side seat as he conducted the search and then placed them back into § 87(2)(b)'s pockets. § 87(2)(b) saw another officer, described as a black male wearing an NYPD jacket identified through the investigation as Det. Harold Thomas, performing a similar frisk of § 87(2)(b) but did not know if he was searched.

Det. Jones told § 87(2)(b) to stand at the rear of the vehicle along with § 87(2)(b) and § 87(2)(b). They were instructed to sit on the rear bumper of the vehicle, with their backs facing the vehicle. § 87(2)(b) was standing near one of the police vans because he was already handcuffed. § 87(2)(b) had no visible injuries. While they were seated on the rear bumper § 87(2)(b) noticed Det. Luparello enter through the driver's side of the vehicle and said, "I smell it! I smell it! Where is it? Where is it?" Det. Luparello commented, "You all were smoking ciga-weed." § 87(2)(b) said they were smoking cigarettes, not marijuana. § 87(2)(b) turned around and saw Det. Luparello on the driver's side of the vehicle. Det. Luparello searched the front driver and passenger seat, the center console, and the back seats. § 87(2)(b) was not able to watch the entire search, but he believed that Det. Luparello was the only one who searched the vehicle. Det. Thomas was standing near the rear of the vehicle and Sgt. Beckel was standing near the front of the vehicle.

PO Oliverio instructed § 87(2)(b) and § 87(2)(b) to remove their shoes and socks. § 87(2)(b) and § 87(2)(b) complied, but no contraband was found. § 87(2)(b) removed his shoes and socks, and a small Ziplock bag of marijuana fell out of his right sock. § 87(2)(b) described the contents of the bag as a leafy substance that was brown and green in color. PO Oliverio picked up the bag of marijuana and handcuffed § 87(2)(b). After § 87(2)(b) was handcuffed all the other males were handcuffed as well. Det. Luparello exited the vehicle after approximately eight minutes, and had a graphing knife in his hand. Det. Luparello found the graphing knife in the center console of the vehicle. § 87(2)(b) explained that he owned the knife and uses it for work purposes. § 87(2)(b) is a § 87(2)(b). Det. Luparello did not listen to § 87(2)(b) and all the males were arrested.

PO Oliverio asked § 87(2)(b) for his pedigree information. He also asked § 87(2)(b) if he had any tattoos or gang affiliations, and § 87(2)(b) said he did not. After PO Oliverio took his information and that of the other males, they were placed in the red van with PO Lee and PO Oliverio. The red van had no windows in the back and there was a curtain blocking the front seats from the back seats. There were no other prisoners in the van at this time.

§ 87(2)(b) stated he was not present when § 87(2)(b) purchased the marijuana that was recovered from his sock. § 87(2)(b) stated that they were not smoking marijuana in the vehicle. After being in the prisoner van for four hours they were taken to the 102nd Precinct. § 87(2)(b) and § 87(2)(b) were charged with § 87(2)(a) 160.50. § 87(2)(b)'s vehicle was left at the scene of the incident in a legal parking spot. § 87(2)(b) did not observe any physical injuries on § 87(2)(b)'s person, and § 87(2)(b) did not seek medical treatment in relation to this incident. § 87(2)(b) was presented with a map during his CCRB interview, and he used the map to mark the incident location.

Results of Investigation

Civilian Witnesses

§ 87(2)(b) provided contact information for § 87(2)(b) and § 87(2)(b). A BADS search was also conducted, which yielded their arrest reports with their addresses. On September 21, 2007, initial contact letters were sent to all the above listed individuals, and a COLES search was conducted for telephone numbers corresponding to these addresses, but yielded negative results. On October 9, 2007, contact was made with § 87(2)(b) the mother of § 87(2)(b) and she noted the investigator's contact information to provide to § 87(2)(b). On October 10, 2007, § 87(2)(b) scheduled an interview at the CCRB for October 18, 2007. On the same date § 87(2)(b) contacted the CCRB and stated he would also appear for the above scheduled interview. Messages were left on § 87(2)(b)'s and § 87(2)(b)'s answering machines informing them that § 87(2)(b) and § 87(2)(b) were scheduled to appear at the CCRB and they should contact the undersigned investigator. On October 18, 2007, § 87(2)(b) cancelled the interview and informed the undersigned investigator that § 87(2)(b) was not going to appear for the interview [Encl. 25a-25d].

On October 23, 2007, phone calls were made and messages were left for § 87(2)(b) and § 87(2)(b) to contact the CCRB in order to pursue their complaint. On October 23, 2007, § 87(2)(b) called the CCRB and provided a brief telephone statement, and informed the undersigned investigator that he would call back to schedule an interview. His statement was similar to that of § 87(2)(b) and § 87(2)(b). § 87(2)(b) explained that on September 13, 2007, he was in his friend, § 87(2)(b)'s vehicle, along with § 87(2)(b) and § 87(2)(b). They were stopped by an unmarked police vehicle and the car was searched. § 87(2)(b) and his friends were also searched. § 87(2)(b) had a physical dispute with two officers, identified through the investigation as PO Lee and Det. Luparello. They were all arrested for possession of marijuana. § 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b) was interviewed at the CCRB on November 9, 2007, and confirmed the contact information for § 87(2)(b) and § 87(2)(b).

On November 16, 2007, phone calls were made and messages were left for § 87(2)(b) and § 87(2)(b) to contact the CCRB. On November 26, 2007, § 87(2)(b) called the CCRB and explained that he "kept forgetting" to contact the CCRB, but would call back in the afternoon because he would know his work schedule at that time. He did not contact the CCRB. On November 26, 2007, contact was made with § 87(2)(b)'s father, who did not want to provide his name to the CCRB, and he noted the undersigned investigator's information to provide to § 87(2)(b). § 87(2)(b)'s father also confirmed that a letter was received from the CCRB in regard to this complaint. On the same date a message was left for § 87(2)(b) on his answering machine asking him to contact the CCRB. On December 4, 2007, a phone call was made to § 87(2)(b) but he did not answer. On the same date final phone calls were made to § 87(2)(b) and § 87(2)(b). Messages were left on their answering machines, informing them that the CCRB was no longer going to contact them and if they wanted to follow through with their complaint they would have to contact the undersigned investigator. On December 4, 2007, final contact letters were sent to § 87(2)(b) and § 87(2)(b). § 87(2)(b) and § 87(2)(b) never contacted the CCRB after December 4, 2007.

Officer Statements

Det. Ronald Luparello

Arrest Report

On September 13, 2007, four arrest reports [Encl. 13a- 13l] were generated for the following individuals:

§ 87(2)(b) and § 87(2)(b)

They were arrested on the northeast corner of 77th Road and 153rd Street in Queens. § 87(2)(a) 160.50

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(a) 160.50

The arresting officer for all of the arrests was Det. Ronald Luparello.

Criminal Court Complaint

The criminal court complaint was generated on September 14, 2007. The criminal court complaint [Encl. 13m-13p] for § 87(2)(b) and § 87(2)(b) § 87(2)(a) 160.50

§ 87(2)(a) 160.50

A second criminal court complaint was generated on September 14, 2007. The criminal court complaint for § 87(2)(b) explained the circumstances of his arrest.

§ 87(2)(a) 160.50

CCRB Statement

Det. Ronald Luparello

On December 28, 2007, Det. Luparello, a § 87(2)(b)-year-old white male with § 87(2)(b) hair, was interviewed at the CCRB [Encl. 13a-13x]. On September 15, 2007, Det. Luparello worked a tour of 2:00pm to 8:30pm. He was the arresting officer for the 102/107 Narcotics Module. Det. Luparello has been working narcotics for three years, and regularly works with this team of people. He was specifically working with Sgt. Beckel, assigned to the leader vehicle. Det. Luparello was the operator and Sgt. Beckel was the recorder. Det. Luparello was in plain clothes working in an unmarked black Dodge Durango. Det. Luparello did not have any memo book entries regarding this incident.

On September 15, 2007, at approximately 4:30PM, Det. Luparello was on patrol in the confines of the 102nd Precinct, when he received a radio transmission informing him that four males were smoking a marijuana cigarette inside of a vehicle. He received a vehicle description, but was unable to recall the color or make/model of the vehicle, although he did know that it was a four door sedan. Det. Luparello received the vehicle description, direction of travel, and the description of four males. Det. Luparello did not know where the other members of the field team were geographically at this time.

Approximately three to five minutes after receiving the radio transmission Det. Luparello noticed a vehicle driving past him that matched the description which was put over, but he did not recall the description at the time of his CCRB interview. He noticed the vehicle because he observed it for less than two minutes after the initial radio transmission was put over. Det. Luparello did not recall if he was parked or driving when he saw the vehicle pass. Det. Luparello also stated that there were other members of the field team pursuing the vehicle, identified through investigation as PO Lee and PO Oliverio. Det. Luparello put over a radio transmission with the direction of travel of the subject vehicle. Det. Luparello pursued the vehicle, and received verification that it was in fact the vehicle referred to in the radio transmission. He did not recall what the occupants of the vehicle were doing when they passed him on the street. Det. Luparello

explained that he observed the vehicle pass him approximately three to four blocks away from the scene of the vehicle stop.

Det. Luparello was approximately two to three car lengths behind the vehicle, and never lost sight of it. At this point in the pursuit Det. Luparello did not recall if there were additional radio transmissions being put over the radio. Det. Luparello activated his turret light, which was located on his dashboard, and the vehicle pulled over around 150th Street and 76th Road. He did not observe anything about the vehicle that raised his level of suspicion independent of the information provided by the radio transmission. Det. Luparello followed the vehicle for approximately three blocks, which took approximately a minute. The street he was traveling on was two way traffic, but he did not recall there being traffic on this date. Sgt. Beckel made the decision to pull over the vehicle. The vehicle pulled over immediately after Det. Luparello activated his turret light.

Det. Luparello approached the vehicle on the driver side, and upon walking towards the driver's side window he smelled marijuana coming from the vehicle. Independent of the odor emanating from the vehicle, there were no additional factors that Det. Luparello observed which led him to believe that there was marijuana in the vehicle. Det. Luparello explained that as a seasoned narcotics detective it has been his training that upon smelling an odor of marijuana it indicates that marijuana was smoked in that vicinity. Additionally he had previously received the radio transmission that indicated there was marijuana being smoked in the vehicle. All the windows were rolled down in the vehicle. Sgt. Beckel approached the vehicle, on the passenger side. Det. Luparello explained that he had his badge hanging around his neck, and was in plain view. Other officers from the field team arrived, identified through the investigation as PO Lee and PO Oliverio, at the scene as Det. Luparello and Sgt. Beckel were approaching the vehicle.

Upon approaching the backseat window on the driver's side of the vehicle Det. Luparello instructed the occupants to show their hands, specifically to the people seated in the backseat of the vehicle, to put their hands up on the head rest of the front seats of the vehicle. Det. Luparello did not have his gun out of its holster upon approaching the vehicle, nor did he at any point during the incident. He stated that he did not remove his gun because it was not necessary, and he had no reason to fear for his safety.

Det. Luparello approached the driver's side of the vehicle. He did not recall if the vehicle was on or off at this point. Det. Luparello did not recall if any of the occupants had anything in their hands. He did not recall if Sgt. Beckel gave any instructions to the occupants of the vehicle. As Det. Luparello looked into the driver's side window of the vehicle he noticed that there was a marijuana cigarette in the ash tray located in the center console of the vehicle. At this point all the occupants of the vehicle were going to be arrested. Det. Luparello was not able to describe the marijuana cigarette because he did not recall its appearance. He identified it as a marijuana cigarette because in his training he has seen many marijuana cigarettes and usually they are rolled in white or brown paper, but for this specific incident he was not able to recall what the contraband looked like. The marijuana cigarette was not lit when it was in the ash tray.

During the initial approach of the vehicle Det. Luparello recalled one male who was noncompliant, identified through the investigation as § 87(2)(b) and he was removed from the vehicle before the other occupants. Other officers had approached the vehicle at this point, but they were standing at the rear of the vehicle. § 87(2)(b) was noncompliant with the officer's directions, moving his hands from the head rest after Det. Luparello instructed him to keep his hands in sight. § 87(2)(b) was "mouthing off," to Det. Luparello, but Det. Luparello was not able to provide any specific description as to what was said. § 87(2)(b) was cursing at the officers and asking, "Why are you arresting me?" There was more to this conversation that Det. Luparello could not recall.

When § 87(2)(b) was removed from the vehicle, he was placed in handcuffs. Det. Luparello opened the door of the vehicle and instructed § 87(2)(b) to exit because he was going to be arrested, but he refused. Det. Luparello grabbed § 87(2)(b)'s left hand and pulled him out of the vehicle. § 87(2)(b) would not exit the vehicle and refused to put his hands behind his back. Det. Luparello physically pulled § 87(2)(b) out of the vehicle and placed him with his stomach against the vehicle. He was moving his arms, refusing to put them behind his back in order to be handcuffed. Det. Luparello used his body weight to subdue § 87(2)(b) and held his hands behind his back in order to handcuff him. Another officer,

identified as PO Lee, was involved in the struggle. Det. Luparello did not recall if the struggle between the officers and § 87(2)(b) ever went to the ground. Det. Luparello did not observe any injuries on § 87(2)(b)'s person nor were any officers injured during the struggle. PO Lee did not strike § 87(2)(b). The only force he used was to pull his hands behind his back. It took approximately ten seconds to handcuff § 87(2)(b).

PO Oliverio, Det. Thomas, and Det. Jones arrived as Det. Luparello was handcuffing § 87(2)(b). Det. Luparello explained that he was not handling one person specifically during the incident, but interacted with all the occupants at different points. Det. Luparello did not recall what the other officers were doing during this time. The occupants were instructed to exit the vehicle and were handcuffed immediately by different officers, approximately a minute to a minute and a half after they exited the vehicle.

Det. Luparello conducted a search of the vehicle in order to obtain any additional contraband. He entered the vehicle in order to obtain the marijuana cigarette from the ash tray, which Det. Luparello stated was vouchered. Det. Luparello entered through the driver's seat of the vehicle and searched the driver and front and back seats, including underneath the seats and the floor area. Det. Luparello recovered a gravity knife from the vehicle, but did not recall from where specifically it was recovered. He did not recall if additional marijuana was found inside of the vehicle. Sgt. Beckel authorized the search of the vehicle, but Det. Luparello was the only officer who entered the vehicle.

Det. Luparello explained that all the males were frisked at the scene. Det. Luparello may have conducted one of the frisks or searches, but he did not conduct all the frisks and searches of the individuals, but clarified that they were incident to arrest. Det. Luparello never asked any of the occupants to remove their shoes or socks, nor did he witness any officers do so.

The entire incident lasted five minutes. All of the occupants were placed into the prisoner van, and taken to the 102nd Precinct stationhouse. Det. Luparello explained that the individuals were placed in the prisoner van, and the officers continued their investigation, therefore they were not taken to the stationhouse until later that day. They arrived at the stationhouse at approximately 9:30pm.

Det. Luparello viewed the tactical plan for September 15, 2007, and stated that the information on the paperwork was accurate. Det. Luparello viewed copies of the property voucher, which stated that there was a Ziploc of marijuana found in the vehicle and it was field tested positive. Det. Luparello acknowledged that he did conduct a field test and that additional marijuana was found, but he did not recall whether it was found on a person or inside of the vehicle. Det. Luparello did not recall if other officers recovered marijuana during the incident. A second property voucher was presented to Det. Luparello which consisted of a cigar, gravity knife, and EZ Rider rolling papers. Det. Luparello believed that these objects were recovered from the vehicle, but did not recall from where specifically. The marijuana cigarette was not on the property voucher, and Det. Luparello was asked to explain its absence. He did not know the marijuana cigarette was not vouchered, and stated that it could have been a very small marijuana cigarette and therefore was not vouchered. Det. Luparello stated that he saw a marijuana cigarette in the vehicle, and he would have been responsible for vouchering the cigarette, but did not know why he did not. He also viewed the criminal court complaint and the supporting deposition, in which he stated that he observed a male place a bag of marijuana into his sock, but did not mention recovering a marijuana cigarette. Det. Luparello could not provide an explanation for the differences, but stated that he definitely recovered a marijuana cigarette and that his memory of the incident was not as clear without the paperwork.

Det. Luparello was never asked to provide his name or shield number to anyone during this incident, nor did he say to any of the occupants, "You want to see my fucking badge." During the physical struggle with § 87(2)(b) Det. Luparello never placed a knee into the back of his head, nor did he witness any other officers do so. Det. Luparello stated that the vehicle was left at the scene of the incident, and not taken as evidence.

Sgt. Eric Beckel

On January 15, 2008, Sgt. Eric Beckel, a § 87(2)(b)-year-old white male, was interviewed at the CCRB [Encl. 14a-14e]. On September 13, 2007, Sgt. Beckel worked a tour of 2:00pm to 11:35pm, and was the

narcotics team supervisor. He was working with Det. Luparello in a blue Dodge Durango, assigned to the team leader vehicle. Det. Luparello was the operator and Sgt. Beckel was the recorder. Sgt. Beckel noted in his memo book that he was conducting buy and bust operations at 4:00pm.

On September 13, 2007, Sgt. Beckel and Det. Luparello were on patrol in the confines of the 102nd and 107th Precincts when they received a radio transmission from PO Lee and PO Oliverio. The radio transmission provided the following information: a vehicle description (black sedan), narcotics exchange for drugs and money, direction of travel, and four black males. PO Lee and PO Oliverio explained that they observed a hand to hand exchange, which would mean they observed people exchanging money for narcotics. Sgt. Beckel was not provided any specific information in regard to the marijuana sale. Sgt. Beckel did not recall any specific information in regard to the radio transmission. Within a few seconds he noticed a vehicle that matched the description that was provided, and put it over the radio. Sgt. Beckel and Det. Luparello noticed the vehicle because it matched the description of a black sedan with four black males, and was traveling in a specific direction, but did not recall the direction.

Sgt. Beckel made the decision to pull the vehicle over. He followed the vehicle and activated his turret lights. Sgt. Beckel pursued the vehicle, and did not put over any radio transmission during this time. He did not observe the occupants of the vehicle making any suspicious movements or throwing any objects out of their window. During the pursuit he never lost sight of the vehicle and remained directly behind it. The pursuit lasted three to four blocks, before the vehicle pulled over.

Once the vehicle stopped, Sgt. Beckel and Det. Luparello exited their vehicle and approached the black sedan. Sgt. Beckel did not immediately notice anything in regards to the vehicle that raised his level of suspicion in regard to any marijuana being smoked inside of the vehicle. Sgt. Beckel approached the passenger side of the vehicle and Det. Luparello approached the driver's side. Sgt. Beckel did not recall if he or Det. Luparello had their firearms un-holstered at this time. Det. Luparello instructed the occupants of the vehicle to raise their hands where he could see them and instructed the driver to turn the vehicle off. The passengers were instructed to move their hands where the officers could see them, the backseat passengers were asked to place their hands on the on the rear side of the front seats and the front seat passengers placed their hands on the dashboard. The vehicle had tinted windows, and only the driver's side window was rolled down, therefore he did not have a clear view of the interior. Sgt. Beckel explained that he and Det. Luparello approached the vehicle slowly, meaning they walked to the rear of the vehicle first, and walked forward. At this point Sgt. Beckel did not observe any movements that raised his level of suspicion. The four male blacks were not compliant with his instructions to place their hands where he could see them, and they instead left their hands by their sides, out of his view. During the initial vehicle stop PO James Lee and PO Joseph Oliverio responded to the scene, and verified that the black sedan was the subject vehicle they observed earlier. They did not provide Sgt. Beckel with any further information in regard to their initial observation.

Within thirty seconds of approaching the vehicle Sgt. Beckel became aware of a gravity knife inside of the vehicle. Sgt. Beckel did not recall who saw the knife, where it was recovered from, or who recovered the knife. Sgt. Beckel became aware of the knife a few seconds after it was found, and he instructed all of the occupants to exit the vehicle. He had no recollection of any of the occupants asking any officers for their names and badge numbers, but he was not on the same side of the vehicle as Det. Luparello, and therefore was not able to hear their entire conversation. At this point there was no physical interaction between any of the occupants and the officers.

A male seated in the backseat, identified as § 87(2)(b) was not compliant with the instructions to exit the vehicle. Two officers, identified through the investigation as PO James Lee and Det. Ronald Luparello, physically removed him from the vehicle. § 87(2)(b) was pulled out of the vehicle by his arms and torso and placed against the passenger side door. He continued to resist the officers when they attempted to handcuff him, but he was eventually handcuffed. Sgt. Beckel did not recall if the struggle ever went to the ground or if § 87(2)(b) was handcuffed while he was standing or on the ground. Sgt. Beckel did not notice any injuries on § 87(2)(b) and did not know if any officers were injured as a result.

Det. Harold Thomas and Det. Naylinden Jones arrived as the males were exiting the vehicle. Sgt. Beckel clarified that once they exited the vehicle they were going to be arrested for the gravity knife that was recovered. Sgt. Beckel was informed that marijuana was recovered from the vehicle, but had no specific recollection of how it was found. He believed that Det. Luparello found the marijuana on the driver, § 87(2)(b) but Sgt. Beckel did not recall if it was on his person or inside of the vehicle.

§ 87(2)(b) and § 87(2)(b) were removed from the vehicle and handcuffed. Det. Luparello was the only officer to enter the vehicle and he conducted a search, which resulted with the recovery of a gravity knife and the bag of marijuana. Sgt. Beckel did not recall if he authorized the searched. Det. Luparello searched the front and back seats of the vehicle. Sgt. Beckel did not recall if he entered the glove compartment or trunk. Sgt. Beckel did not recall if the marijuana was recovered as a result of the search or prior to the search of the vehicle, as a result of the frisks and searches of the occupants of the vehicle. Det. Luparello conducted an investigation into the ownership of the marijuana, and discovered it to belong to § 87(2)(b). The ownership of the gravity knife was not determined. § 87(2)(b) was charged with § 87(2)(a) 160.50 and the other occupants were charged with § 87(2)(a) 160.50.

While Det. Luparello conducted a search of the vehicle, § 87(2)(b) and § 87(2)(b) were escorted to the rear of the vehicle, where they were handcuffed. They were never asked to remove their shoes and socks during a frisk or search. Sgt. Beckel stated that he was not the only officer interacting with these males. There were points at which he was not immediately present, and did not have a view of the individuals. The males were searched incident to arrest, for the officers' safety, which is procedure. Sgt. Beckel was asked to clarify at what point they were under arrest, and stated that once the knife was recovered the males were under arrest.

Sgt. Beckel was presented with the criminal court complaint and supporting deposition, for which Det. Luparello stated that he had observed the driver of the vehicle place a bag of marijuana in his shoe, from which it was later recovered. Sgt. Beckel explained that he did not have a view of the driver of the vehicle, and therefore he had no knowledge of this happening. Sgt. Beckel was not informed of such information by Det. Luparello. The criminal court complaint also provided information that the males were smoking a marijuana cigarette, and Sgt. Beckel did not recall if this information was part of the observation. Sgt. Beckel did not recall the males smoking cigarettes or marijuana while he pursued their vehicle. There was nothing that raised his level of suspicion in regard to marijuana in the vehicle when he initially conducted the vehicle stop. He was presented with property vouchers, which were prepared by Det. Luparello and verified by Sgt. Beckel, for the following items: one cigar, one knife, a clear Ziplock bag containing marijuana, and an EZ rider pack. Sgt. Beckel was not able to describe the knife that was recovered, and did not have any specific recollection as to where these items were obtained.

Sgt. Beckel never entered the vehicle to conduct a search. Sgt. Beckel knew that the males were frisked and searched, but he did not engage in the frisks and searches, and did not recall who did conduct them. The frisks and searches were incident to arrest because the males were already in custody for the contraband found in the vehicle.

PO James Lee

On January 16, 2008, PO James Lee, a § 87(2) -year-old Asian male, was interviewed at the CCRB [Encl. 15a-15e]. PO Lee has since been promoted to sergeant. On September 13, 2007, PO Lee worked a tour of 2:00pm to 10:00pm, and was assigned to the Queens Narcotics Team. On this date he was the operator or recorder for the prisoner van, working with PO Joseph Oliverio. PO Lee was wearing plain clothes. PO Lee did not have his memo book with him on the date of his CCRB interview, but later faxed it to the CCRB. PO Lee had no memo book entries in regard to this incident.

On September 13, 2007, PO Lee and PO Oliverio were conducting observations for their narcotics team in the vicinity of 153rd Road and 76th Avenue in Queens. While conducting observations PO Lee noticed four black males in a black sedan smoking a marijuana cigarette. The vehicle drew PO Lee's attention because it was illegally parked, possibly in front of a fire hydrant or double parked. PO Lee made the observation from approximately fifty to a hundred yards away, and did not use binoculars or anything to enhance his

view of the vehicle. PO Lee informed PO Oliverio of his observation, and they both watched the subject vehicle. PO Lee knew that the males were smoking marijuana “joints” as opposed to cigarettes because of his knowledge as a narcotics officer and physically the manner in which they smoked the marijuana cigarette, meaning how they raised the cigarette to their mouths. He described the marijuana cigarette as a small brown cigarette.

In addition to these observed actions PO Lee’s suspicion was raised in regards to narcotics because the males were parked illegally, the area is a “drug prone” location, and one male, identified through the investigation as § 87(2)(b) exited the vehicle to look around then got back into the vehicle. PO Lee found this behavior suspicious because it appeared as though § 87(2)(b) was looking for a drug dealer in the area. PO Lee watched these individuals for approximately five to ten minutes. He did not approach them because he was waiting for other sellers or buyers of narcotics to approach the vehicle. No other individuals approached the vehicle, and the driver of the vehicle pulled away. They were still smoking the marijuana cigarette as they pulled away from the location.

PO Lee or PO Oliverio put over the radio transmission, which stated that they observed a vehicle with four young black male occupants smoking marijuana. A description of the vehicle was put over and direction of travel were put over the radio, but he did not recall the description at the time of his CCRB interview. PO Lee and PO Oliverio pursued the vehicle as it pulled away, and followed it for approximately two to three minutes. He did not immediately pull them over because he wanted to see if they were going to another narcotics location, and he also wanted to wait for backup. PO Lee received responses from his field team via radio that they were nearby. PO Lee never lost sight of the vehicle during the pursuit, and did not see the individuals dispose of the marijuana cigarette, and did not recall if they were smoking marijuana for the entire time that they were driving.

The vehicle was stopped approximately four minutes later. PO Lee and PO Oliverio pulled behind the vehicle and Sgt. Beckel and Det. Luparello pulled in front of the subject vehicle. PO Lee had his lights and sirens on for only a few blocks during the pursuit. The vehicle did not stop immediately when the officers activated the lights and sirens, which was why Sgt. Beckel’s vehicle pulled in front of the vehicle, forcing it to stop.

PO Lee and PO Oliverio exited their vehicle, and approached the subject vehicle. PO Lee did not recall if he had his gun un-holstered at this time. PO Lee instructed the individuals to turn off the vehicle and show their hands. PO Lee approached the rear driver’s side of the vehicle, and PO Oliverio either approached the same side or the opposite rear side. Sgt. Beckel and PO Oliverio approached from the front of the vehicle. PO Lee observed the occupants of the vehicle moving around, specifically moving their hands around on the seats and the ground of the vehicle. This indicated to PO Lee that they were either trying to hide or grab something inside of the vehicle. He continued to instruct them to show their hands. The windows on the vehicle were not tinted, and some of the windows were rolled down, but he did not recall which ones. As he approached the rear windows of the vehicle he smelled marijuana coming from the vehicle. PO Lee did not see the marijuana cigarette inside of the vehicle, which made him believe that these individuals threw it out, but he did not observe them dispose of the marijuana cigarette during the pursuit.

One of the passengers seated in the vehicle, identified as § 87(2)(b) refused to comply with PO Lee’s instructions by not putting his hands in the air. He told the officers, “Why the fuck are you stopping us? We didn’t do anything!” PO Lee, Det. Luparello, and PO Oliverio removed § 87(2)(b) from the backseat. They did so because he refused to cooperate with their instructions and was verbally hostile. § 87(2)(b) did not ask PO Lee for his name and badge number, nor did he hear him ask any of the other officers for such information. PO Lee and Det. Luparello pulled § 87(2)(b) out of the vehicle by his arms and torso. Once he was removed from the vehicle, § 87(2)(b) refused to place his hands behind his back in order to be handcuffed. He physically resisted the officers by moving his arms about, and subsequently PO Lee and Det. Luparello took § 87(2)(b) to the ground in order to handcuff him. PO Lee did not have a specific recollection of how they went to the ground, but he believed that they physically moved him to the ground in order to handcuff him. § 87(2)(b) was not injured, nor did he complain of any injuries. While § 87(2)(b) was on the ground PO Lee did not step on his arms or head, nor did any other officers. PO Lee and Det. Luparello held § 87(2)(b) against the ground in order to

handcuff him, but did so by applying pressure to his body with their arms, not their knees. PO Lee and Det. Luparello never said, "Do you want to see my fucking badge?"

While PO Lee and Det. Luparello arrested § 87(2)(b) Det. Harold Thomas and Det. Naylinden Jones arrived at the scene. All of the occupants were instructed to exit the vehicle, were handcuffed upon exiting, and moved to the rear of the vehicle. They were not arrested at this time, but were removed and handcuffed for the safety of the officers. PO Lee clarified that this was an investigative detention, until they made a determination in regard to the scent of marijuana.

The vehicle was searched by Det. Luparello, and the search yielded an unknown quantity of marijuana in the rear of the vehicle. PO Lee did not observe the marijuana or recover the marijuana from the vehicle, nor did he recall who found this marijuana. The marijuana was "loose," which meant that it was sprinkled on the floor of the backseat of the vehicle. There was a gravity knife recovered from the center console of the vehicle as well, but he did not know who found the knife. The gravity knife is a deadly weapon, therefore all the occupants were going to be arrested at this point. These items were in plain view when the occupants were removed from the vehicle, but PO Lee was not the first officer to observe the contraband. An investigation was conducted as to the ownership of the knife and marijuana, and the driver, § 87(2)(b) was the owner of the marijuana. PO Lee did not recall who conducted the investigation or if additional marijuana was recovered from the vehicle.

Once the gravity knife and marijuana were recovered § 87(2)(b) and § 87(2)(b) were arrested. Det. Luparello conducted a search of the vehicle, and PO Lee never entered the vehicle. The vehicle was vouchered and removed to the stationhouse. § 87(2)(b) and § 87(2)(b) were placed against the rear of the vehicle and asked to remove their shoes and socks, due to the fact that the driver of the vehicle, § 87(2)(b) stated he had marijuana in his shoe. One bag of marijuana was recovered from the search of the shoes. The ownership of the knife was never determined, so all the males were charged with criminal possession of a weapon. Only one bag of marijuana was found as a result of the searches, and it belonged to § 87(2)(b) PO Lee clarified that at this point § 87(2)(b) and § 87(2)(b) were all arrested, and the searches were incident to their arrest.

PO Lee transported all of the males back to the 107th Precinct stationhouse because he was in the prisoner van. After the arrest of these individuals PO Lee continued patrolling the area, and he did not arrive at the 107th Precinct stationhouse until four to five hours later. During the transport to the stationhouse PO Lee and PO Oliverio had no interaction with § 87(2)(b) or § 87(2)(b) and during the arrest processing he did not encounter any problems. The marijuana cigarette was never recovered, and PO Lee stated that he had questioned them in regard to the marijuana cigarette and they admitted to having smoked one earlier that day and throwing it out of the vehicle during the police pursuit.

PO Lee viewed the criminal court complaint and supporting deposition, the report indicated that Det. Luparello observed a male inserting marijuana into his shoe. PO Lee never made such an observation, nor was he informed of such a motion by Det. Luparello. PO Lee clarified that upon approaching the vehicle he did observe the males moving around in the vehicle, but was not able to state that he specifically saw them reaching towards their shoes.

PO Lee was asked for his name and badge number during the incident by § 87(2)(b) after he was already in handcuffs. PO Lee verbally provided his name and shield number, but did not know if any other officers were asked or if they provided their information. PO Lee did not use any profanities when speaking with any of the individuals during this incident.

PO Joseph Oliverio

On April 22, 2008, PO Joseph Oliverio, a § 87(2)(b)-year-old white male, was interviewed at the CCRB [Encl. 16a-16c]. On September 13, 2007, PO Oliverio worked a tour of 2:00pm to 10:00pm. He was assigned to the prisoner van working with PO Lee. They were in plain clothes and working as part of the 102nd Precinct Queens Narcotics Module. PO Oliverio did not have his memo book with him at the time of his CCRB interview. He stated he had no entries in regard to this incident. The undersigned investigator called his command and left messages for him to contact the CCRB on September 12, and September 15,

2008. Sgt. Tat Mui, of the CCRB and NYPD liaison unit, has made multiple requests from September 23, 2008, through October 17, 2008, however the memo book for PO Oliverio has yet to be received.

On September 13, 2007, PO Oliverio and PO Lee were patrolling the confines of the 102nd Precinct, when PO Oliverio noticed a parked black sedan with four black male occupants. The vehicle was parallel parked near a sidewalk in front of an apartment complex near 153rd Street and 75th Avenue. PO Oliverio and PO Lee drove past the parked vehicle, and PO Oliverio noticed that the males were smoking marijuana cigarettes and drinking beer. There was marijuana smoke coming out of the passenger side window of the vehicle. PO Oliverio knew it to be marijuana smoke because of the smell, but never saw the actual marijuana cigarette or cigar. He was approximately two to three feet away from the vehicle as he drove past and made this observation. PO Oliverio made this observation over a period of two to three minutes, which was the time it took for him to drive past the vehicle. During this time he observed that the individuals had beer cans in their vehicle, but he was not able to articulate which brand of beer. PO Oliverio did not conduct a second patrol of the block, nor did he stop after making his first observation. Once he saw the beer cans and smelled marijuana he put over a radio transmission to his field team, which included the vehicle description, physical descriptions of the occupants, and the direction the parked vehicle was facing. PO Oliverio did not provide any information in regards to the observed actions of specific individuals inside of the vehicle, only that the males were smoking marijuana and drinking. When PO Oliverio drove away from the parked vehicle it was still parked.

PO Oliverio received radio responses from members of his field team that they were en route to respond, and that the vehicle was no longer parked. They provided a direction of travel to PO Oliverio. PO Oliverio stated that his responsibility was to observe the vehicle, and provide a radio transmission with direction of travel. After he put over the radio transmission he would respond after his field team had conducted a vehicle stop. PO Oliverio was not present when the vehicle was stopped. He received a radio transmission approximately five minutes after he put over the original observation that the vehicle had been stopped by Sgt. Beckel and PO Oliverio. There was no information put over in regard to what was going on inside of the vehicle during the pursuit.

PO Oliverio responded to the vehicle stop at 150th Street and 76th Road. Sgt. Beckel, Det. Luparello, Det. Thomas, and Det. Jones were already at the scene. The occupants of the vehicle were in handcuffs outside of the vehicle, and he verified that it was the vehicle that he initially observed. PO Oliverio did not know if marijuana was recovered from the vehicle, nor did he know if any beer cans were recovered. He was not informed about any physical struggle between the officers and the occupants of the vehicle, nor did he observe any injuries on any of the males or other officers. PO Oliverio was never informed as to whether the vehicle was searched, if marijuana was recovered, or if beer cans were found.

Det. Luparello entered the vehicle and performed a search, but PO Oliveira did not recall the extent of the search. He explained that it was done subsequent to the arrest of the individuals to safeguard the vehicle. Nothing was recovered as a result of the search. He was not able to explain the extent or duration of the search. PO Oliverio did not recall whether the vehicle was vouchered or parked at the scene because it was not his responsibility. PO Oliverio was only at the scene for a few minutes because he arrived, picked up the arrested individuals, and immediately left.

PO Oliverio was presented with two property vouchers, which listed a Ziplock bag of marijuana, an EZ rider pack, one cigar, and a knife. He explained that he was not present when these items were obtained, and was not aware if another search was conducted of the vehicle. PO Oliverio was never asked for his name and badge number, nor did he hear any other officers asked for such information. There was no discussion about beer cans inside of the vehicle, nor were they vouchered. PO Oliverio did not observe any injuries on any of the individuals, nor did he hear any individuals complain of injuries. PO Oliverio was at the scene for only a few minutes.

Det. Naylinden Jones

On May 8, 2008, Det. Naylinden Jones, a § 87(2)(b) -year-old black male, was interviewed at the CCRB [Encl. 17a-17b]. On September 13, 2007, Det. Jones worked a tour of 1:00pm to 11:00pm, assigned to Queens Narcotics. He working with Det. Harold Thomas and they were assigned to the chase car. He was

wearing plain clothes and driving a gray Dodge Caravan. Det. Jones did not have his memo book with him because he could not find the memo book with this date. On September 18, 2008, Det. Naylinden Jones called the undersigned investigator and informed her that he had received her requests for his memo book. On October 15, 2008, Det. Jones's memo book was received at the CCRB and he did not prepare any entries in regard to this incident.

Det. Jones had no recollection of this incident. Det. Jones viewed copies of the arrest reports, criminal court complaints and supporting depositions, and photographs, but he still had no recollection of the incident. He was provided with the clothing descriptions provided by § 87(2)(b) but he had no recollection of wearing such clothing on this date although he did own a brown adjustable Yankees baseball cap. Det. Jones has worked narcotics for approximately three to four years, but not with the same group of officers.

Det. Harold Thomas

On April 28, 2008, Det. Harold Thomas was interviewed at the CCRB [Encl. 18a-18b]. On September 13, 2007, Det. Thomas worked a tour of 11:27am to 8:00pm, and was assigned as an investigator for Queens Narcotics- 102nd Precinct Module. Det. Thomas worked with this narcotics team for two to three months and worked narcotics for approximately twenty-two years. Det. Thomas stated he had no memo book entries in regard to this incident, but did not have his memo book with him at the time of the interview. Det. Thomas was asked to fax his memo book to the CCRB, and failed to do so. The undersigned investigator called his command and left messages for him to contact the CCRB on September 12, and September 15, 2008. On September 23, 2008, the information was given to Sgt. Tat Mui, of the CCRB and NYPD liaison unit, and she has been making repeated attempts to obtain the memo books, as of October 17, 2008, the memo book has not been received.

Det. Thomas had no independent recollection of this incident. He viewed the tactical plan for September 13, 2007, and confirmed that he was working as part of the Queens Narcotics team with Det. Naylinden Jones. He was assigned to a chase vehicle, green minivan, and his responsibility was to perform back up for the undercover officers.

Det. Thomas was provided with the criminal court complaints and supporting depositions, arrest reports, property vouchers, and photographs, yet he still had no recollection of this incident. Det. Thomas was provided with a clothing description that § 87(2)(b) provided during his CCRB interview, and stated that he never wore such attire, and did not recall if Det. Jones owned such clothing.

Note Regarding Additional Officer Statements

Det. Thomas Sikinger and Det. Christopher Hirsch, who were noted on the tactical plan, were interviewed at the CCRB and were not present for this incident [Encl. 18a-18b and 19a-19b].

Police Documents

Tactical Plan

The tactical plan [Encl. 22a] for September 13, 2007, noted that the officers were working a tour of 2:00pm to 10:00pm, covering the 102nd and 107th Precincts. The arresting officer was Det. Ronald Luparello. The team leader vehicle had Sgt. Eric Beckel and Det. Ronald Luparello, this vehicle was described as a blue dodge. The first chase vehicle, described as a silver Dodge, had PO Hirsch and Det. Sikinger inside of the vehicle. The second chase vehicle, described as a green Dodge, had Det. Thomas and Det. Naylinden Jones. The prisoner van, a red Ford, had PO James Lee and PO Joseph Oliverio. There were also two undercover officers working on this date, identified as UC# § 87(2)(e) and UC# § 87(2)(e).

Property Vouchers

A property voucher [Encl. 13q-13r] (§ 87(2)(b)) was prepared for § 87(2)(b) and § 87(2)(b) on September 14, 2007. It listed one clear plastic bag containing marijuana, which was field tested positive by Det. Luparello. The voucher was prepared by Det. Ronald Luparello.

A second property voucher was prepared by Det. Ronald Luparello (§ 87(2)(b)) on September 14, 2007, for § 87(2)(b) and § 87(2)(b). The voucher listed one knife, one cigar, and one EZ Rider pack.

Narcotics Borough Queens Roll Call (102 and 107 Precinct Modules)

The roll call [Encl. 22b] for September 13, 2007, identified Sgt. Eric Beckel, Det. Naylinden Jones, Det. Harold Thomas, Det. Ronald Luparello, Det. Thomas Sikinger, PO Christopher Hirsch, PO James Lee, and PO Joseph Oliverio as working tours of 2:00pm to 10:55pm. They were assigned to “Group One” of the narcotics team.

Criminal Conviction History

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

CCRB Histories

This was § 87(2)(b)'s first complaint with the CCRB, and he was also listed as a victim in CCRB case § 87(2)(b). This is § 87(2)(b)'s, § 87(2)(b)'s, and § 87(2)(b)'s first and only complaint with the CCRB [Encl. 7a-7g].

Det. Ronald Luparello has no substantiated allegations with the CCRB in his thirteen-year tenure. Sgt. Eric Beckel has no substantiated allegations with the CCRB in his fifteen-year tenure. PO Joseph Oliverio has no substantiated CCRB allegations in his five-year tenure with the NYPD. Sgt. James Lee has a substantiated allegation with the CCRB in his six-year tenure. In case number 200702497 Sgt. Lee was substantiated for an allegation of property damage, and the NYPD disposition has not yet been received by the CCRB. Det. Naylinden Jones has no substantiated CCRB allegations in his seventeen-year tenure with the CCRB. Det. Harold Thomas has one substantiated allegation with the CCRB in his twenty-four-year tenure. In case number 9602852, Det. Thomas received a command discipline for speaking discourteously. Det. Thomas received a command discipline A [Encl. 6a-6e]

Conclusions and Recommendations

Officer Identification

§ 87(2)(b) provided detailed descriptions of the subject officers, which were confirmed through NYPD documents and the officers' CCRB interviews. Det. Ronald Luparello was the arresting officer and was in the team leader vehicle with Sgt. Eric Beckel. § 87(2)(g)

§ 87(2)(b) alleged that a white male officer used profanities when speaking with § 87(2)(b) physically removed him from the vehicle and threw him on the ground, and performed a search of § 87(2)(b) vehicle. § 87(2)(g)

§ 87(2)(b) explained that the second set of officers to arrive on the scene were two male officers, one Asian officer and a white male officer, and they were driving a red van. The Asian officer was identified as PO James Lee and the white male officer was identified as PO Joseph Oliverio, which was based on the physical description [Encl. 10a-10i] and NYPD documents [Encl. 13a-13l]. § 87(2)(b) alleged that PO Lee and PO Oliverio used physical force against § 87(2)(b) so allegations of physical force are pled against PO Lee and PO Oliverio.

Note Regarding Allegations Not Being Pled

PO Oliverio and PO Lee provided detailed information to Det. Luparello and Sgt. Beckel that § 87(2)(b) and § 87(2)(b) were engaging in criminal activity, described as smoking marijuana cigarettes. § 87(2)(g)

§ 87(2)(g)

Undisputed and Disputed Facts

It is undisputed that PO Oliverio and PO Lee observed § 87(2)(b) and § 87(2)(b) smoking marijuana cigarettes inside of § 87(2)(b)'s vehicle. It is also undisputed that Sgt. Beckel and Det. Luparello subsequently stopped and performed a search of § 87(2)(b)'s vehicle. § 87(2)(g)

Assessment of Evidence

PO Joseph Oliverio and PO James Lee were the observing officers for the arrests of § 87(2)(b) and § 87(2)(b). PO Oliverio and PO Lee were consistent in stating that they observed a parked black sedan with four black male occupants smoking "marijuana cigarettes" inside of the vehicle with the windows rolled down, which was also confirmed through the arrest reports, criminal court complaint, and supporting depositions [Encl 13a-13p]. PO Oliverio added that he observed the occupants drinking from beer cans while seated inside of the vehicle, but no other officers corroborated the existence of such beer cans. There were no property vouchers for any beer cans, § 87(2)(g)

PO Oliverio and PO Lee agreed that a radio transmission was put over for four male blacks in a black sedan smoking marijuana cigarettes. Sgt. Beckel provided an entirely different statement in regard to the information received by PO Oliverio and PO Lee, § 87(2)(g)

PO Oliverio, PO Lee, and Det. Luparello confirmed the information relayed via the radio transmission, and this observation was verified by the arrest reports, criminal court dispositions, and supporting depositions [Encl 13a-13p]. There is no dispute that the information relayed to the members of the field team included descriptions of the four black males smoking marijuana cigarettes.

Det. Luparello and Sgt. Beckel received the radio transmission from PO Oliverio and PO Lee, and within three to five minutes they noticed a vehicle that matched the description drive past them. Det. Luparello and Sgt. Beckel followed the vehicle and conducted a stop. PO Lee alleged that he also followed the vehicle, while PO Oliverio stated that he did not arrive on the scene until after the occupants of the vehicle were handcuffed. § 87(2)(g)

Once the vehicle was stopped, § 87(2)(b) alleged that Sgt. Beckel and Det. Luparello approached the vehicle with their guns pointed towards the body of the vehicle. Sgt. Beckel did not recall having his firearm pointed towards the vehicle, and Det. Luparello stated that he never did have his firearm unholstered during the incident. § 87(2)(g)

Within a few seconds PO Lee and PO Oliverio arrived. § 87(2)(b) described a physical interaction between § 87(2)(b) and PO Lee, PO Oliverio, and Det. Luparello, which resulted with § 87(2)(b) being handcuffed on the ground outside of the vehicle. The officers then instructed § 87(2)(b) and § 87(2)(b) to exit the vehicle and they were frisked and searched.

Det. Luparello, Sgt. Beckel, PO Lee and PO Oliverio provided differing statements in regards to what was observed inside of the vehicle, and the sequence of the males being removed, handcuffed and arrested. Det. Jones and Det. Thomas had no recollection of this incident. Sgt. Beckel and PO Oliverio had no recollection as to how marijuana was recovered or the chronology of the individuals being handcuffed. § 87(2)(g)

§ 87(2)(g)

Upon approaching the vehicle Det. Luparello and PO Lee detected the odor of marijuana emanating from the vehicle. Det. Luparello observed a marijuana cigarette inside of the vehicle near the center console, but was not able to provide any information as to the description of the marijuana cigarette. Subsequent to this observation Det. Luparello had all the males exit the vehicle. PO Lee explained that initially the males were asked to exit the vehicle and handcuffed for the safety of the officers. Only after they were removed from the vehicle did PO Lee become aware of the loose marijuana leaves in the back of the vehicle, sprinkled over the floor of the backseat. PO Lee did not observe a marijuana cigarette inside of the vehicle. A search of the vehicle was conducted, which yielded a gravity knife that was found in the center console, and this was confirmed by property vouchers, additional officer statements, and § 87(2)(b)'s statement.

A property voucher was generated for the gravity knife that was found inside of the vehicle, yet none was prepared for any of the alleged marijuana found inside of the vehicle, whether it was a marijuana cigarette or loose marijuana. Det. Luparello was the only officer who alleged that there was a marijuana cigarette inside of the vehicle, and PO Lee was the only officer who alleged that marijuana in a loose form was found in the backseat of the vehicle. § 87(2)(g)

Det. Luparello performed a search of the vehicle, which was done subsequent to detecting the odor of marijuana. Det. Luparello had the occupants exit the vehicle, and conducted a search of the following areas: driver and passenger seats, underneath the seats, the floor of the vehicle, and along the center console area.

§ 87(2)(b) described a similar search, but also included the backseat area. By all accounts, Det. Luparello was the only officer to enter the vehicle, and as a result of the search, as supported by NYPD documents, a gravity knife was recovered. § 87(2)(g)

As Det. Luparello conducted a search of the vehicle, § 87(2)(b) and § 87(2)(b) were escorted to the rear bumper of the vehicle, where they were frisked and searched. PO Lee acknowledged that § 87(2)(b) and § 87(2)(b) removed their shoes and socks, and a bag of marijuana was recovered from the search. Det. Luparello explained in the Criminal Court Complaint and Supporting Deposition [Encl 13m-13p]. that he observed § 87(2)(b) shove a bag of marijuana into his sock during his initial approach of the vehicle, § 87(2)(g). Also, § 87(2)(b) stated that the bag of marijuana was recovered from § 87(2)(b)'s right sock, as a result of the more extensive search, § 87(2)(g).

Allegation A: Abuse of Authority: Sgt. Eric Beckel stopped the car in which § 87(2)(b) and § 87(2)(b) were occupants.

The radio transmission that was put over by PO Joseph Oliverio and PO James Lee informed Det. Luparello and Sgt. Beckel that there were four black males smoking a marijuana cigarette inside of a black sedan and gave a direction of travel. According to Barry Kamins's *New York Search and Seizure Law*, "A police officer can stop a car based solely on the description transmitted, provided there is a sufficient degree of specificity in the information." [Encl. 3a-3c] § 87(2)(g)

§ 87(2)(g)

Allegation B: Abuse of Authority: Sgt. Eric Beckel pointed his gun at § 87(2)(b)

and § 87(2)(b)

Allegation C: Abuse of Authority: Det. Ronald Luparello pointed his gun at § 87(2)(b)

and § 87(2)(b)

§ 87(2)(b) alleged upon approaching his vehicle Sgt. Beckel and Det. Luparello had their guns un-holstered, pointing towards the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants. Det. Luparello stated that he did not have his firearm un-holstered or pointed towards the vehicle when he approached, and Sgt. Beckel stated that he did not recall having his firearm drawn or pointed upon approaching the vehicle.

Det. Luparello and Sgt. Beckel were conducting a vehicle stop because they received information that the occupants of the vehicle were engaging in criminal activity. § 87(2)(g)

As noted in OATH case PD vs. Gliner, “Drawing a gun is found to be reasonable in ordering a person out of a car in the course of investigating a traffic infraction or criminal activity.” There is also no, “distinction between the drawing of a firearm and the pointing of it in [these] situations.” [Encl. 2a-2c] § 87(2)(g)

Allegation D: Abuse of Authority: Det. Ronald Luparello spoke obscenely and/or rudely to § 87(2)(b)

Allegation E: Force: Det. Ronald Luparello used physical force against § 87(2)(b)

Allegation F: Force: Officer James Lee used physical force against § 87(2)(b)

Allegation G: Force: Officer Joseph Oliverio used physical force against § 87(2)(b)

As summarized in the “other complainants” section, § 87(2)(b) was not cooperative with the investigation, and failed to contact the CCRB although it was clear that he had the information to do so. § 87(2)(g)

Allegation H: Abuse of Authority: Det. Ronald Luparello searched the vehicle in which § 87(2)(b)

and § 87(2)(b) were occupants.

Det. Luparello stopped § 87(2)(b)'s vehicle, and upon approaching the vehicle, detected the odor of marijuana. § 87(2)(g)

According to Barry Kamins’s *New York Search and Seizure Law*, “If the officer smells the distinctive odor of drugs, he would also have probable cause to search the entire vehicle.” [Encl. 4a-4e] § 87(2)(g)

§ 87(4-b) § 87(2)(g)

§ 87(4-b) § 87(2)(g)

Investigator:
Supervisor: Cristal Rivera
Reviewed by:
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Date:
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